

Message

From: Rice, Scott [Rice.Scott@epa.gov]
Sent: 2/11/2019 1:31:01 PM
To: Bunker, Kelly [Bunker.Kelly@epa.gov]
CC: Pratt, Stacie [Pratt.Stacie@epa.gov]
Subject: RE: Hazelton Creek NON update

Ok. Sounds good Kelly

From: Bunker, Kelly
Sent: Monday, February 11, 2019 7:37 AM
To: Rice, Scott <Rice.Scott@epa.gov>
Cc: Pratt, Stacie <Pratt.Stacie@epa.gov>
Subject: RE: Hazelton Creek NON update

Hi Scott – I created a subfolder under PA Beneficial Use to put all the Hazelton Petition files. The PA Beneficial Use folder was getting so full of stuff and this will hopefully help organize things.

From: Fisher, Bethany
Sent: Friday, February 08, 2019 5:38 PM
To: Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>; Gimlin, Peter <Gimlin.Peter@epa.gov>; daw, harry <daw.harry@epa.gov>; Pratt, Stacie <Pratt.Stacie@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>; Rice, Scott <Rice.Scott@epa.gov>; Bunker, Kelly <Bunker.Kelly@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Werner, Jacqueline <Werner.Jacqueline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Grant, Brian <Grant.Brian@epa.gov>; Winchester, Erik <Winchester.Erik@epa.gov>
Subject: RE: Hazelton Creek NON update

Thank you all for reviewing the draft jurisdictional filing in the Hazelton Creek case. I just sent the attached edits to DOJ. I have been asked to share the brief with management in OGC and OCSPP, so after I receive an updated version from DOJ, I will send that version to management for their input. I will also circulate to this group at that time. Have a nice weekend!

Bethany Fisher
EPA Office of General Counsel
Pesticides and Toxic Substances Law Office
202-564-2672

From: Fisher, Bethany
Sent: Tuesday, February 05, 2019 4:20 PM
To: Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>; Gimlin, Peter <Gimlin.Peter@epa.gov>; daw, harry <daw.harry@epa.gov>; Pratt, Stacie <Pratt.Stacie@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>; Rice, Scott <Rice.Scott@epa.gov>; Bunker, Kelly <Bunker.Kelly@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Werner, Jacqueline <Werner.Jacqueline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Grant, Brian <Grant.Brian@epa.gov>
Subject: RE: Hazelton Creek NON update

Hello everyone,

We received a draft filing from DOJ addressing the Third Circuit's authority over the Hazelton Creek PCB case. Because of the uncertainty associated with the end of next week and the need for additional management review on my end, there unfortunately isn't much time for staff-level review. Please provide any comments or edits on the attached by this **Friday at 3 pm**. My apologies for the tight timeline, and appreciation in advance for your quick review.

Please note that this is a SharePoint link, so everyone can review and comment on the same document. The most important thing is to save the file using this icon in the top-left:



DO NOT rename the file (with your initials, the date, etc.); that renamed file will then live on your personal computer and your edits will not be shared with the group. If you'd like to save a personal copy with your edits, please save the file to your own computer *after* you've saved it using the icon above. If you're unfamiliar with SharePoint or using/saving collaborative documents like this, feel free to reach out.

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From: Fisher, Bethany
Sent: Monday, January 28, 2019 1:52 PM
To: Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>; Gimlin, Peter <Gimlin.Peter@epa.gov>; daw, harry <daw.harry@epa.gov>; Pratt, Stacie <Pratt.Stacie@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>; Rice, Scott <Rice.Scott@epa.gov>; Bunker, Kelly <Bunker.Kelly@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Werner, Jacqueline <Werner.Jacqueline@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: Hazelton Creek NON update

Welcome back all!

Regarding the Hazelton Creek PCB case, I wanted to make you aware that the Third Circuit Court of Appeals has a notice on their [website](#) which says, in relevant part: "The Court is aware that affected federal agencies will need time to recall furloughed employees and assess the current status of their cases. Accordingly, any federal government deadlines in non-criminal cases dated December 24, 2018 through and including February 1, 2019 will be reset. On February 19, 2019, the Clerk will post on the Court's website a schedule of reset deadlines. Any reset deadlines will be staggered to ensure an orderly resumption of work."

Deliberative Process, Attorney Client & Attorney Work Product / Ex. 5

Bethany Fisher
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From: Fisher, Bethany
Sent: Friday, December 28, 2018 3:25 PM
To: Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos

<presler.amos@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>; Gimlin, Peter <Gimlin.Peter@epa.gov>;
daw, harry <daw.harry@epa.gov>; Pratt, Stacie <Pratt.Stacie@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>;
Rice, Scott <Rice.Scott@epa.gov>; Bunker, Kelly <Bunker.Kelly@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>;
Saenz, Diana <Saenz.Diana@epa.gov>; Werner, Jacqueline <Werner.Jacqueline@epa.gov>; Fogarty, Johnpc
<Fogarty.Johnpc@epa.gov>

Subject: RE: Hazelton Creek NON update

Hello all,

On December 24, the Third Circuit clerk filed a text order granting EPA's request to extend the filing date for our jurisdictional motion to January 8. With that said, the Third Circuit website currently says:

Deadlines for filings by federal government agencies in non-emergency cases will be suspended during the government shutdown. New deadlines will be established once the government shutdown has ended. To ensure an orderly resumption of work, government entities should expect that deadlines will be staggered. For example, filings due December 24, 2018 would be due seven days after the end of the shutdown; filings due December 26 would be due eight days after the end of the shutdown.

Deliberative Process, Attorney Client & Attorney Work Product / Ex. 5

Finally, I came across the attached 1980 memo from OECA to DOJ regarding interpretation of TSCA section 19, and thought some might find it interesting; I'm planning to share with DOJ as well.

Have a wonderful new year!

Bethany Fisher
EPA Office of General Counsel
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From: Fisher, Bethany

Sent: Friday, December 21, 2018 9:44 AM

To: Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos
<presler.amos@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>; Gimlin, Peter <Gimlin.Peter@epa.gov>;
daw, harry <daw.harry@epa.gov>; Pratt, Stacie <Pratt.Stacie@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>;
Rice, Scott <Rice.Scott@epa.gov>; Bunker, Kelly <Bunker.Kelly@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>

Subject: RE: Hazelton Creek NON update

All,

Deliberative Process, Attorney Client & Attorney Work Product / Ex. 5

Deliberative Process, Attorney Client & Attorney Work Product / Ex. 5

Thanks, and happy holidays!

Bethany Fisher
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From: Fisher, Bethany

Sent: Thursday, December 13, 2018 5:44 PM

To: Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>; Gimlin, Peter <Gimlin.Peter@epa.gov>; daw, harry <daw.harry@epa.gov>; Pratt, Stacie <Pratt.Stacie@epa.gov>; Jamieson, Cheryl <Jamieson.Cheryl@epa.gov>; Rice, Scott <Rice.Scott@epa.gov>; Bunker, Kelly <Bunker.Kelly@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>

Subject: Hazelton Creek NON update

Hi all,

We have DOJ representation in the Hazelton Creek NON case. DOJ reached out to Allen Kacenjar at Patton Boggs, Hazelton Creek's counsel, and received agreement to request that the court extend the deadline for filing the jurisdictional motion to January 8. DOJ will be filing that extension request soon.

Deliberative Process, Attorney Client & Attorney Work Product / Ex. 5

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